

Thursday, 9 o'clock, A. M.
March 16th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names :

Messrs. Abbott, Bourland, Brashear, Burleson, Clark, Cuny, Dancy, Gage, Grimes, Jewett, Fitzgerald, McRae, Navarro, Parker, Perkins, and Wallace.

Quorum present.

The Journal of the preceding day was read and adopted.

Mr. Grimes, chairman of the committee on Finance, to which was referred a joint resolution for the relief of Ford and Cronican, reported the same back to the Senate and recommended its passage.

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Mr. Clark, Chairman of the committee on Education, made the following report:

Committee Room,
March 16th, 1848.

HON. JOHN A. GREER,
President of the Senate :

The committee on Education have had under consideration "A bill to be entitled an act for the establishment of "Free Public Schools," and herewith return the same to the Senate, and recommend that it be postponed for the present.

In making this recommendation, the committee would not be regarded as being indifferent upon the subject of Education—wanting in a proper appreciation of its value and importance, or as condemning the bill under consideration. On the con-

trary, they are anxious to see an efficient system of public instruction established in Texas.

They are convinced of the necessity and benefit of a general diffusion of intelligence, both as regards the happiness of the people, and the prosperity and safety of the State, and are pleased to find in the bill many provisions seemingly well calculated at least to secure to the growth of the country a good practical Education, were it to become a law. Governments founded like ours, in intelligence, are suited alone to an enlightened and educated people. Education is very properly a subject of legislation. The State is no less interested in an extension of knowledge than its citizens, considered apart and dissolved from their political relations with the State. The permanency of our free institutions depends upon the education of the children of our country; and if the perpetuation of free Governments, dependant as they are admitted to be, upon general information and knowledge, be an object dear to man, it is one of the first and most sacred duties of the Legislator, to direct his views and efforts to the production of some plan of general instruction, which will accomplish their security. With us every citizen is authorized to investigate the affairs of State, and to aspire to, and hold any office known to the laws; and in order to fully understand and properly employ the privilege in either instance with advantage to the public, it is certainly necessary that we should be sufficiently informed to comprehend the powers we exert. By right of sovereignty, the people have all political power in their hands, and if the knowledge necessary for a judicious exercise of it be neglected, we may neither expect a happy condition of society, or a long continuance of our rights.

The obligation of Government to provide means for the education of its subjects, arises not alone, however, from considerations of safety to the State. The happiness of the human family depends entirely, perhaps, upon the enlightenment of the human mind.

If this be true it is the duty of the law-making power to legislate with a view to the happiness of the people aside from any political considerations whatever. Hence, those upon whom devolves the responsibility of framing the laws, have but half discharged their obligations when they have prescribed rules for the government of individuals.

It has been well observed, "that the most efficient laws, are

those which control by the influence of enlightened principles; without this principle, vivified by the touch of education, there can be no peace in the community, and no morals in society. By the probation, which it imposes upon every one, to become a good and useful citizen, it contributes to the abatement of the vices, which deform the body social; dignifies the plainness of Republican morality—exalts the character of private worth—fosters the developement of public virtue—checks the inroads of grasping cupidity, and in the opening which it affords for every social merit, opens a source of general prosperity.

Notwithstanding the foregoing reflections, the committee are fearful that it is too early to attempt a plan of free schools for the State. Prompted by considerations of good for those, for whose particular interest the Legislature is required to act in this behalf, they would suggest the propriety of inquiring into the operation and details of the policy of States where systems of free public instruction are established, before attempting one of our own origination. In all matters of life, and especially those of great magnitude, we should be well satisfied of our ability to accomplish our desires, before we attempt their execution. Failure is sometimes an auxiliary to success, generally it is a very serious obstacle in its way. In a community unacquainted with any mode of popular education, the majority of whose members have been educated at institutions established and sustained by private and individual means and generosity. Adopting the same course in the education of their own children, it must prove a matter of considerable difficulty to fall upon a system of free public schools, which will, in its beginning, prove entirely successful.

Texas has done, or at least manifested a disposition to do much for the cause of education. In the first days of her existence, as an independent nation, while yet the dark cloud of war lingered in the horizon of her hopes and prospects, and ere the soil of her memorable and glorious battle fields, had lost the moisture of her patriots blood, "freely spilled in freedom's cause," she gave largely of her only wealth, to institutions of learning. In addition to lands given for purposes of education by the late Republic, the Convention which formed the Constitution of the State, provided other means for the dissemination of intelligence among the people—at least one-tenth of the annual revenue of the State derived from taxation, is allowed to be appropriated to the support of free schools, and

while the Legislature is required to establish them throughout the State, whenever deemed practicable, the power is given to levy a tax upon property, to accomplish the object, independent of the fund obtained from the general revenue of the State. It would not be extravagant, perhaps, to remark, that no State has gone further in the way of liberal provision for the cause of education, and surely, if the amplitude of the donation, is any evidence of the donor's appreciation of the object in view, Texas will stand second to none in the value which she attributes to knowledge.

The school fund now in the Treasury, is small, and if distributed among the several counties, would be to each, or to some at least, a sum too small to be of any service. The bill does not command the share of each county to be drawn from the State Treasury, but leaves it to the counties to determine whether they will receive it, and if not taken it remains to the credit of the county. It is natural for us to receive whenever any thing is offered, and so strong and universal is this principle of our nature, that we scarcely ever refuse even the shadow of a treasure. The committee suppose that the most, if not all of the counties, will apply for the portion of the school fund, to which they may be entitled, should the bill be passed, and if they should, and the plan of education established, should prove unsuccessful or abortive, a considerable sum of money will have been used to no advantage, and the cause itself retarded. Many of the counties may fail to organize under the law, but as has already been remarked, flattering temptations are seldom ever rejected, and the committee deem even the *trifling dangers*, (if they should be considered such,) which here obstruct our way, another reason sustaining them in the recommendation they make in regard to the bill.

To the Legislature, has been committed the care and direction of the means provided for the education of the youth of the country. The trust is one of sacred and responsible character, and should prove a subject of peculiar concern to those who are charged with its execution. If prudently managed and directed, it will become a source of great good and happiness to the whole State—but if on the other hand, it be incautiously and prematurely administered, the magnificent endowments of the Constitution and of the laws, will have been

made in vain, and an irreparable injury inflicted upon those who are to come after us.

EDWARD CLARK,
Chairman.

A message was received from the House of Representatives, informing the Senate that the House had passed the following bills which originated in the Senate, viz:

A bill to be entitled an act to prescribe the times of holding the courts in the second Judicial district of the State of Texas.

A bill to be entitled an act supplementary to an act to regulate the public printing, approved March 8th, 1848.

A bill to be entitled an act to define the times of holding the District courts in the fifth, sixth and eighth Judicial districts.

A bill to be entitled an act supplementary to an act to regulate the public printing, approved March 8th, 1848.

Also, that the House had concurred in the amendments of the Senate to the following bills, viz:

A bill to be entitled an act to establish the method of trying the right of property levied on under writs of execution, sequestration and attachment, when the same is claimed by a person who is not a party to such writ:

A bill to be entitled an act to provide for the exchange of books, maps and charts.

A bill to be entitled an act for the regulation of pilots at the mouth of the Brazos river.

A bill to be entitled an act to raise a revenue by taxation, and

A bill to be entitled an act to incorporate the town of San Augustine.

And refused to concur in the amendments of the Senate to a bill to be entitled an act prescribing the punishment for cutting down, carrying away, or destroying trees or timber upon any land without the consent of the owner.

Also, that the House had passed a bill to be entitled an act to create the county of Van Zandt.

And Joint Resolution on the Proviso, Slavery, the Tariff, and war against Mexico; originating in the Senate, with amendments.

And had passed a bill to be entitled an act concerning proceedings in the District Courts.

On motion of Mr. Jewett,

Mr. Williamson was excused in consequence of sickness.

On motion of Mr. Bourland,

Mr. Williams was also excused from attendance on the Senate, in consequence of sickness.

A bill to be entitled an act concerning intestates estates, was read.

Mr. Wallace moved to amend the 4th section, by inserting after the word "intestate" in 16th line "without remainder to any person or persons."

Adopted.

Mr. Wallace moved to amend the 8th section by striking out "as" in 13th line and inserting "according to the value thereof."

Adopted.

Mr. Wallace moved to amend the 10th section by inserting in 2d line, after "woman," "and die intestate" and by inserting after "legitimate" in third line "and made capable of inheriting his estate," and by inserting in 5th line, after "legitimate," the following words, "and capable of inheriting the estates of the parties to such marriage, according to the sales prescribed in the 4th section of this act."

Adopted.

Mr. Wallace moved to amend the 11th section in 1st and 2d lines, by striking out "or transmitting inheritance on the part of their mother," and inserting "from and through their mother, and of transmitting estates."

Mr. Wallace moved to amend the 12th section, by inserting "intestate" after "dies" in 2d line.

Adopted.

The bill then passed to a third reading.

On motion of Mr. Brashear,

The rule was suspended; bill read third time and passed.

A bill to be entitled an act to provide for the assessment and collection of taxes.

Question on the amendment proposed by Mr. Wallace to the 17th section, upon the adoption of which, the yeas and nays were called and stood as follows:

YEAS—Messrs. Abbott, Brashear, Cuny, McRae, Parker, Perkins and Wallace—7.

NAYS—Messrs. Bourland, Burleson, Clark, Dancy, Gage, Grimes, Jewett, Fitzgerald and Navarro—9.

So the amendment was rejected.

Mr. Grimes moved to amend by inserting at the end of the 8th section, "Provided that in all new counties created at the present session of the Legislature, the taxes shall be assessed and collected in the county or counties from which the territory composing such new county was taken, until such new county is organized in conformity to law."

Adopted.

Mr. Perkins moved to indefinitely postpone the bill.

Upon which the yeas and nays were called, and stood thus :

YEAS—Messrs. Cuny, McRae, Navarro, Perkins, and Wallace—5.

NAYS—Messrs. Bourland, Brashear, Burleson, Clark, Dancy, Gage, Grimes, Jewett, Fitzgerald, Parker—10. Lost.

The bill then passed to a third reading.

On motion of Mr. Jewett, the rule was suspended.

Bill read third time, and passed by the following vote

YEAS—Messrs. Abbott, Bourland, Burleson, Clark, Dancy, Gage, Grimes, Jewett, Navarro and Parker—10.

NAYS—Messrs. Brashear, Cuny, Fitzgerald, McRae, Perkins, and Wallace—6.

Mr. Perkins, chairman of the committee on Engrossed Bills reported as correctly engrossed, a joint resolution requesting John C. Watrous to resign his office as Judge of the United States' District Court for the District of Texas.

On motion of Mr. Dancy, the Senate concurred in the amendment of the House to "joint resolution on the Proviso, Slavery, the Tariff, and the war against Mexico."

On motion of Mr. Gage, the Senate insisted on their amendment to a bill to be entitled an act prescribing the punishment for cutting down, carrying away or destroying trees or timber upon any land without the consent of the owner.

On motion of Mr. Gage, a committee of conference was appointed on said bill.

Messrs. Gage, Jewett and Dancy were appointed said committee.

On motion of Mr. Gage, the Senate refused to concur in the amendment of the House to a bill to be entitled an act to create the county of Van Zandt.

A committee from the House informed the Senate that the House was ready to receive the Senate in the Representative Hall, for the purpose of electing a District Attorney for the 11th Judicial District.

On motion of Mr. Burleson, the Senate repaired to the House of Representatives for that purpose.

IN JOINT SESSION.

Mr. Burleson nominated James W. Webb for District Attorney of the 11th Judicial District.

Mr. Dancy nominated Mr. Benjamin E. Edwards.

Upon calling the roll, the following Senators voted for Mr. Webb:

Messrs. Abbott, Bourland, Brashear, Burleson, Clark, Cuny, Gage, Grimes, Jewett, Fitzgerald, McRae, Perkins, and Wallace—13.

The following Senators voted for Mr. Edwards:

Messrs. Dancy, Navarro and Parker—3.

On the part of the House, Mr. Webb received 46 votes. Mr. Edwards received 3 votes.

Mr. Webb having received a majority of all the votes, was declared by the Speaker of the House duly and constitutionally elected District Attorney for the 11th Judicial District for the term of two years.

The Senate returned to their chamber.

Joint resolution for the relief of Theodore D. Maltby, John

Hervey and Nathaniel R. Mallone, was read third time and passed by the following vote;

Yeas—Messrs. Abbott, Bourland, Burleson, Clark, Cuny, Gage, Grimes, Jewett, Fitzgerald, McRae, Navarro, Parker and Perkins—13.

Nays—Messrs. Dancy and Wallace—2.

A bill to be entitled an act providing for the payment of jurors.

On motion of Mr. Wallace, referred to a select committee.

Messrs. Wallace, Grimes and Jewett were appointed said committee.

On motion of Mr. Bourland,

A bill to be entitled an act to incorporate the town of Jefferson, was taken up, together with the report of the committee on State Affairs, offering amendments thereto, and read.

Report adopted.

Mr. Wallace moved to amend by inserting the words "by ballot" after the word "vote," in 3d line of 3d section.

Adopted.

The bill was then ordered to be engrossed.

On motion of Mr. Bourland, the rule was suspended,

Bill read third time and passed.

On motion of Mr. Navarro, a bill to be entitled an act to secure to the colonists of Fisher & Miller's colony, the lands to which they may be entitled, was taken up and read.

Mr. Dancy moved to amend by striking out "two dollars" in 10th section, and inserting "one dollar."

Rejected.

The bill was then passed to a third reading.

On motion of Mr. Cuny, the previous question was called.

On motion of Mr. Jewett, the vote calling for the previous question was reconsidered.

Mr. Dancy moved to amend the bill by inserting at the end of the first section, "Provided, that nothing contained in this bill shall be construed to place the contractors of said colony in a better condition with regard to the State of Texas, than they would be in if this bill had not been passed."

Adopted.

The yeas and nays were then called on the final passage of the bill, and stood thus:

Yeas—Messrs. Bourland, Brashear, Burleson, Cuny, Dancy,

Gage, Grimes, Jewett, Fitzgerald, Navarro, Parker, Perkins and Wallace—13.

Nays—Messrs. Abbott and Clark—2.

So the bill passed.

Mr. Perkins, chairman of the committee on Engrossed Bills, reported the following bills, viz.:

A bill to be entitled an act to establish the Harrisburg and Rio Grande Railroad Company: and

A bill to be entitled an act for the benefit of persons who settled in the colony of W. S. Peters and his associates: correctly engrossed.

On motion of Mr. Jewett,

A bill to be entitled an act for the benefit of persons who settled in the colony of W. S. Peters and his associates, was taken up:

Read third time and passed.

On motion of Mr. Cuny, the Senate adjourned until half-past 2 o'clock, p. m.

—

Half-past 2 o'clock, p. m.

Senate met—roll called—quorum present.

Joint resolution requesting John C. Watrous to resign his office as Judge of the United States District Court of the District of Texas, read, and

On motion of Mr. Wallace, made the special order of the day for to-morrow.

On motion of Mr. Dancy,

A bill to be entitled an act for the relief of Michael Short, was taken up.

Read third time and passed.

A message was received from the House of Representatives, informing the Senate that the House concurred in the amendments of the Senate to the 4th, 10th and 11th sections of a bill to be entitled an act to regulate the descent and distribution of intestates' estates; and refused to concur in the 1st and 3d amendments to the 10th section.

Also refused to concur in the amendments to the 12th section.

Also that the House refused to concur in the amendments to the caption.

The Senate receded from their first and third amendments to the tenth section :

Also, from their amendment to the twelfth section :

Also, from their amendment to the caption of bill to be entitled an act to regulate the descent and distribution of intestate estates.

Mr. Clark, chairman of the committee on the Judiciary, made the following report :

In view of the near approach of the day set for the final adjournment of the Legislature, and the great length of the bill to be entitled an act to regulate proceedings in the County Courts, relating to guardians and wards, a majority of the Judiciary committee have authorized me to report said bill back for the action of the Senate.

Having examined the bill with some degree of care and attention. The undersigned would remark that he is prepared to vote for its passage. He thinks some of the amendments proposed to and referred with the bill are good, but he is not authorized to advise their adoption, the bill not having been considered in committee.

EDWARD CLARK, Chairman.

A bill to be entitled an act to change the name of Hn Conner to Hn Valentine Dalton and to make him a lawful heir of Valentine T. Dalton.

Read first time.

Mr. Brashear moved to suspend the rule that the bill might be read second time.

Lost.

A bill to be entitled an act to regulate the killing of neat cattle.

Read first time.

A bill to be entitled an act supplementary to an act entitled

an act to establish the Judicial Districts of the several District Courts.

Read first time.

On motion of Mr. Brashear.

A bill to be entitled an act supplemental to an act entitled an act supplemental to an act to organize the Supreme Court of Texas, was taken up, read and ordered to be engrossed.

On motion of Mr. Abbott, the rule was suspended:

Bill read third time and passed.

A message was received from the House of Representatives, informing the Senate that the House insist on their amendments to a bill to be entitled an act to provide for permanently fixing the seat of Justice of the county of Dallas, and had appointed,

Messrs. Lott, Winkler and Davis of R., a committee of conference on the part of the House on said bill and request a like committee on part of the Senate.

On motion of Mr. Gage,

A committee of conference was appointed on part of the Senate.

Messrs. Gage, Parker and Cuny were appointed said committee.

On motion of Mr. Cuny,

A bill to be entitled an act to incorporate Milam Liberal Institute was taken up and passed to a third reading, and

On motion of Mr. Cuny, rule was suspended:

Bill read third time and passed by the following vote.

YEAS—Messrs. Abbott, Brashear, Burleson, , Clark, Cuny, Dancy, Gage, Grimes, Jewett, McRae, Navarro, Parker, Perkins and Wallace—14.

NAYS—None.

Mr. Perkins, chairman of the committee on Engrossed Bills, reported as correctly engrossed,

A bill to be entitled an act requiring the Attorney General to attend to certain causes in the District Courts, and providing compensation for the extra services rendered.

And a Joint Resolution relating to a National road from the Rio Grande to the Pacific.

A message was received from his Excellency the Governor, presenting a communication in writing:

Which was read, and

On motion of Mr. Gage, made the special order of the day for to-morrow.

On motion of Mr. Dancy,

A bill to be entitled an act to provide for the enumeration of the inhabitants of the State of Texas for the year 1848 was taken up.

On motion of Mr. Dancy,

The Senate concurred in the amendment of the House to the above bill.

A bill to be entitled an act to incorporate the Houston Lyceum.

Read second time and passed to a third reading.

On motion of Mr. Brashear,

The rule was suspended,

Bill read third time and passed by the following vote.

YEAS—Messrs. Abbott, Brashear, Burleson, Clark, Cuny, Dancy, Gage, Grimes, Jewett, Fitzgerald, McRae, Navarro, Parker, Perkins and Wallace—15.

NAYS—None.

A message was received from the House of Representatives, informing the Senate that the House had passed a bill to be entitled an act regulating fees of office.

On motion of Mr. Abbott,

A bill to be entitled an act prescribing the mode of establishing the liabilities of drawers and endorsers of bills of exchange and promissory notes was taken up;

On motion of Mr. Wallace made the special order of the day for to-morrow.

On motion of Mr. Dancy,

A bill to be entitled an act requiring the Attorney General to attend to certain causes in the District Courts, and providing compensation for the extra services required.

Was taken up and read third time.

Mr. Wallace moved the indefinite postponement of the bill.

On motion of Mr. Clark, the bill was laid upon the table.

On motion of Mr. Burleson,

A bill to be entitled an act to amend the 18th section of an act to incorporate the city of Austin, approved 11th May, 1846.

Read first time.

On motion of Mr. Brashear the rule was suspended.

Read second time and referred to a select committee.

Messrs. Burleson, Brashear and Jewett were appointed said committee.

Joint resolution appropriating one hundred dollars for the purpose of procuring a map of Shelby county.

Read second time and passed to a third reading.

On motion of Mr. Wallace,

The rule was suspended,

Bill read third time and passed.

Mr. Dancy; Chairman of the committee on State Affairs made the following report.

The committee on affairs of State, to whom was referred, "A bill to be entitled an act to require all land titles to be recorded in the county where the land lies," after examining the same have instructed me to report a substitute therefor, and recommend the adoption of the substitute and the passage thereof.

A bill to be entitled an act regulating fees of office.

Read first time.

On motion of Mr. Wallace, the rule was suspended.

Bill read second time and referred to the committee on the Judiciary.

On motion of Mr. McRae the Senate adjourned.

Friday, 9 o'clock, A. M.

March 17th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Clark, Cuny, Dancy,